

SERVED: December 1, 2000

NTSB Order No. EA-4867

UNITED STATES OF AMERICA
NATIONAL TRANSPORTATION SAFETY BOARD
WASHINGTON, D.C.

Adopted by the NATIONAL TRANSPORTATION SAFETY BOARD
at its office in Washington, D.C.
on the 29th day of November, 2000

_____)	
JANE F. GARVEY,)	
Administrator,)	
Federal Aviation Administration,)	
)	
Complainant,)	
)	Docket SE-15212
v.)	
)	
BRUCE EDWARD MINTER,)	
)	
Respondent.)	
_____)	

OPINION AND ORDER

The Administrator appeals the written initial decision¹ of Administrative Law Judge William A. Pope, II, finding that the Administrator failed to prove the allegation in her amended emergency order of revocation² that respondent lacks the good moral character required of all airline transport pilots by

¹ A copy of the initial decision ("I.D.") is attached.

² Respondent waived the expedited procedures applicable to an emergency order of revocation.

section 61.153(c) of the Federal Aviation Regulations.³ We deny the appeal.

The law judge's thorough summary of the facts makes it unnecessary to reiterate them here in detail. In brief, the Administrator issued an emergency order of revocation, dated April 15, 1998, alleging respondent lacks good moral character on account of various alleged misdeeds, including registering two aircraft and submitting a pre-application statement of intent to apply for an air carrier operating certificate under the name of a corporation that had not yet been incorporated in any state, falsifying a negotiable instrument by endorsing a check as president of that corporation, misuse of the bankruptcy process and embezzlement, fraudulent filing of federal tax returns and tax evasion, failure to disclose assets in a bankruptcy filing, misrepresentation of a material fact to a state tax technician, and drawing a check with insufficient funds.⁴

The law judge observed five days of hearing testimony, including that provided by respondent, and considered most, if

³ Section 61.153(c), 14 C.F.R. Part 61, states, in pertinent part:

§ 61.153 Eligibility requirements: General.

To be eligible for an airline transport pilot certificate, a person must:

* * * * *

(c) Be of good moral character...

⁴ The Administrator's Second Amended Emergency Order of Revocation, issued November 13, 1998, serves as the complaint here and is attached to the initial decision.

not all, of the arguments now presented on appeal. Upon our review of the record, we discern no error that would justify a reversal of the law judge's decision, especially because we agree with his judgment that respondent's alleged lack of good moral character was not convincingly demonstrated by the Administrator.⁵ We therefore see no basis to grant the Administrator's appeal.⁶

⁵ The Administrator argues that dismissal of paragraphs 2-31 of the complaint was erroneous. Those charges all stemmed from respondent's use of the name Air Resources, Inc., despite the fact that it had not yet been incorporated, in two separate aircraft registration applications, in a pre-application statement of intent to apply for an air carrier operating certificate, and in endorsing a check received for subsequently selling one of the aircraft. Administrative Law Judge William R. Mullins issued a pre-hearing order on September 17, 1998, dismissing paragraphs 2-31 of the complaint, but subsequently recused himself from the case for unrelated reasons. After assuming responsibility for the case, Judge Pope "thoroughly reviewed" Judge Mullins' written order on the motion to dismiss, and found it not to be in error. We are unconvinced by the Administrator's arguments that Judge Mullins' decision to dismiss paragraphs 2-31 was erroneous. More importantly, this issue is rendered moot by Judge Pope's decision, for even when the factual underpinnings to the dismissed allegations are viewed in the light most favorable to the Administrator (an exercise facilitated by the Administrator's voluminous appellate discussion of the evidence), they would not inescapably evince respondent's lack of good moral character. See I.D. at 23-24.

⁶ The Administrator has also filed before us a "Motion for the Board to Receive and Consider New Evidence and Motion for Remand to Add New Allegations." The motion for remand is couched in the alternative, so that the Administrator can add new allegations to her complaint if the Board declines to grant the motion to receive and consider new evidence. Respondent opposes the motion. It is unclear whether the Administrator's submission meets the requirements of rule 821.50(c), but even assuming it does, it is of questionable weight and, more importantly, would not alter the outcome of this case. See I.D. at 23-24. We also do not see any public benefit in remanding this case for these purposes. The Administrator's motion is therefore denied. We do not reach the issue of whether the new material would appropriately be the subject of another complaint.

ACCORDINGLY, IT IS ORDERED THAT:

1. The Administrator's appeal is denied; and
2. The initial decision is affirmed.

HALL, Acting Chairman, HAMMERSCHMIDT, GOGLIA, BLACK, and CARMODY, Members of the Board, concurred in the above opinion and order.